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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Office of the Secretary
Federal Communications Commission
1919 M Street Northwest, Suite 233
Washington, District of Columbia 20554

Subject: Further Notice of Proposed Rule Making
PP Docket No. 93-253, GN Docket No. 90-314
GN Docket No. 93-252

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Dear Sirs:

In the above-stated subject proposal, you suggest in your opening paragraph that you find it necessary to modify existing rules for the F.C.C. Entrepreneurs Auction now scheduled for late August, due to legal uncertainties raised by the Supreme Court's recent decision in *Adarand Constructors, Inc. vs. Peña*. You further state that you are mindful of "the Commission's obligation and commitment to ensure that designated entities are afforded opportunities to participate in the provision of spectrum-based services," and that the F.C.C. is "committed to this goal." Based on your proposed actions and solutions, however, I find that you are neither mindful nor committed to any goals other than ones that follow the path of least resistance, and certainly without regard for the impact and renewed hardships that this potential decision will most certainly place on truly minority entrepreneurs.

When Congress passed the Omnibus Budget Reconciliation Act of 1993, the F.C.C. received a "mandate" to ensure that businesses owned by members of minority groups and women (collectively known as "designated entities") are given the opportunity to participate in the provision of spectrum-based services. The F.C.C. and Congress both acknowledged that special and unique problems faced designated entities, in broadband PCS, including the difficulties minorities and women experience in accessing capital. As a result, the F.C.C. established the "entrepreneurs' blocks" (C and F frequency blocks for PCS) which require bidders to satisfy a financial cap to be eligible to bid on licenses in these blocks.

Because of these actions by Congress and the F.C.C., many entrepreneurs like myself took the measured risk of abandoning high-paying and substantial corporate jobs in telecommunications and other related fields to participate in this "once in a lifetime opportunity to gain ownership and influence in the wireless backbone of the information superhighway," confident that we were operating under a set of rules that were tested and sound, proceeding to build business plans and seek capital and equity investors based on the rules established, and spending thousands and thousands of our own saved-up dollars to establish small companies.

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It is shocking to find now that after so much time and personal investment based on a set of rules that the F.C.C. researched and established, and after numerous delays to the anticipated schedule, we find ourselves in the eleventh hour having to revise all of our plans and reestablish our position with investors based on arbitrary and capricious decisions being contemplated by a spineless government body, namely the Federal Communications Commission.


It is both disappointing and discouraging to find that the F.C.C., although confident that your "current record regarding the C block auction is strong," is unwilling to stand by those beliefs, choosing rather to abandon the mandate from Congress based on the uncertain implications of the Adarand Decision, with no regard to the reckless hardships that would be created for entrepreneurs forced to reposition and hold together financial backing.

To say that the F.C.C. is taking this position in order to expedite the auction process is not acceptable. To expedite the process at the risk of eliminating many of the very individuals that these auctions were designed to include is hypocritical and capricious at best. To suggest that expediting the process will somehow provide equal footing with the major cellular providers is misleading. We are already outgunned 10,000 to one, so to give the proper inspection to this matter, even at the risk of a few days' delay, is the right path.

I strongly urge you to maintain the existing rules for the F.C.C. Entrepreneurs Auction, but at the least, do a thorough inspection and test of the Supreme Court decision, even at the risk of further delay.

Better is it to move forward with certainty than to rush forward in fear.

Sincerely,


Q. T. Kenan
President,

cc: President Bill Clinton
Vice President Albert Gore
The Reverend Jesse Jackson
Siegel, Eberhardt, Carter & Dassow
King, Pagano & Harrison
Sander Levin
Cari Levin